BEFORE THE ARBITRATOR

In the Matter of Final and Binding Interest Arbitration of a Dispute Between

Marathon COUNTY (DEPARTMENT OF SOCIAL SERVICES)

and

Marathon COUNTY SOCIAL SERVICES PARAPROFESSIONAL AND CLERICAL EMPLOYEES UNION, LOCAL 2492, AFSCME, AFL-CIO

WERC Case 250, No. 55909, Int/Arb-8357
Decision No. 29518-A

APPEARANCES:

For the Union: Mr. Phil Salamone, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, 7111 Wall Street, Schofield, Wisconsin 54476.

For the Employer: Dean R. Dietrich, Esq., Ruder, Ware & Michler, S.C., 500 Third Street, Suite 600, P.O. Box 8050, Wausau, Wisconsin 54402-8050.

ARBITRATION AWARD

The union has represented nonprofessional employees in Marathon County's social services department for a number of years. There are 44 employees in the unit, and the most recent collective bargaining agreement expired by its terms on December 31, 1997. In late September, 1997, the parties commenced bargaining over the terms of a new agreement. In December, 1997, the Union filed a petition for arbitration pursuant to section 111.70(4)(cm)6 of the Wisconsin Statutes. Efforts to mediate the dispute by a staff member of the Wisconsin Employment Relations Commission were unsuccessful, and an impasse investigation was closed by the Commission's order for binding arbitration dated December 22, 1998. The undersigned arbitrator was appointed by Commission order dated March 3, 1999. A hearing was held in the matter in Wausau, Wisconsin on May 17, 1999. Both parties filed briefs and reply briefs, and the record was closed on August 13, 1999.

Statutory Criteria to be Considered by Arbitrator
Section 111.70 (4) (cm) 7

7. "Factor given greatest weight." In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give the greatest weight to any state law or directive lawfully issued by a state legislative or administrative officer, body or agency which places limitations on expenditures that may be made or revenues that may be collected by municipal employer. The arbitrator or arbitration panel shall give an accounting of the consideration of this factor in the arbitrator's or panel's decision.
7g. "Factor given greater weight." In making any decision under the

arbitration procedures, authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give greater weight to economic conditions in the jurisdiction of the municipal employer to any of the factors specified in subd. 7r.

7r. "Other factors considered." In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall also give weight to the following factors:

a. The lawful authority of the municipal employer.
b. Stipulation of the parties.
c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.
d. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services.
e. Comparison of the wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees generally in the public employment in the same community and in comparable communities.
f. Comparison of the wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees in private employment
g. The average consumer prices for good and services, commonly known as the cost of living.
h. The overall compensation presently received by the municipal employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
i. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
j. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

The Union's Final Offer

Effective 1/1/98- increase all wage rates by three percent (3.00%) across the board

Effective 1/1/99-increase all wage rates by three and one half (3.50%) across the board

The Employer's Final Offer

1. Revise Article 8 - Wages and Reclassification, Paragraph (A) Wages to provide for the payment of wages through direct deposit:

> Wages shall be paid through direct deposit. Employees shall complete the necessary authorizations to effectuate the direct deposit of wages.

2. Revise Article 9 - Insurance, Paragraph (A) Medical and Hospitalization Benefits to provide for a 5% premium contribution by employees on 12/1/99:

> The County agrees to continue to pay One Hundred Percent (100%) of the medical and hospitalization program until 11/30/99. Effective 12/1/99, the County will pay Ninety Five Percent (95%) of the cost of the medical and hospitalization program and the employee will pay Five Percent (5%) of the cost of the medical and hospitalization program.

3. Revise Article 12 - Holidays, Paragraph (A) Paid Holidays by eliminating the half day holiday on December 31 and increasing the number of personal holidays provided to employees by a half day.

4. Revise Article 19 - Insurance, Paragraph (B) Dental Insurance Benefits by deleting all references to "Blue Cross/Blue Shield Dentacare" and substituting "Capitated/HMO Dental Benefit." Also, add this sentence to the last paragraph:

> Any reductions in the dental benefit must be approved by the Labor-Management Committee on employee benefits and the Union.

5. Revise Article 22 - Travel Expenses (A) Mileage Allowance by increasing the base mileage rate to twenty and a half cents ($.205) per mile and reimbursing employees who maintain a personal insurance policy which meets or exceeds the established standards at the IRS business mileage rate:

> Mileage when traveling by personal automobile on official County business shall be reimbursed at the rate of twenty and a half cents (20.5¢) per mile. Those individuals who maintain a personal insurance policy of not less than one hundred thousand dollars ($100,000) combined single limits of bodily injury and property damage, and who provide their department head with a photocopy of their policy cover sheet or a certificate of insurance shall qualify for a higher level of reimbursement equal to the IRS business mileage rate as of January 1 of each year. The higher reimbursement rate shall be adjusted on January 1 of each year and shall remain in effect for the entire year. Request for reimbursement shall be made on forms which indicate that the County has been provided with the necessary documentation certifying that the driver's personal insurance coverage meets or exceeds the established standards.

6. Delete Paragraph B) Car Allowance of Article 22 - Travel Expenses in its entirety.

7. Revise Article 28, Duration of Agreement to provide for a 2-year agreement, 1998 and 1999.

8. Revise Appendix A - Salary Schedule as follows:

A. 3% annual adjustment on 1/1/98
   3% annual adjustment on 1/1/99

9. Create a new Article entitled "Post Employment Health Plan":

> Beginning on 12/1/99, the County shall contribute $12 per pay period toward the Post Employment Health Plan on behalf of each employee. These contributions shall accumulate in a trust account for the payment of qualified medical expenses incurred after leaving employment. Additionally, the County shall pay the annual administrative fee associated with this program.

10. Create a new Article to the Labor Agreement, "Labor and Management Committee on Employee Benefits." This new Article shall read:

> The County agrees to create a Labor-Management Committee to discuss employee benefits. The committee shall include one representative of the D.S.S. Paraprofessional and Administrative Employees Union and the Union shall pay the cost of educating its representative in "labor-management cooperation" and "insurance industry trends." The Labor-Management Committee shall be advisory to the County Administrator and the President of the D.S.S. Paraprofessional and Administrative Employees Union.

11. The County agrees to increase the coverage for eyeglass frames from $35 every two years to $50 every two years.

Rejection of Tentative Agreement

At the hearing, the County introduced evidence concerning a tentative agreement which had been rejected by the membership of the Union in a ratification vote. The Union objected to admission of this evidence. A ruling on admissibility of this evidence was deferred pending arguments. The Union subsequently addressed the issue in its brief; the County did not.

There is a distinction between refusing to admit a piece of evidence entirely, and admitting it but assigning it no weight in the determination. I note that virtually all of the numerous arbitrators whose decisions were cited by the Union in this respect actually admitted the evidence of rejection, but then assigned it no weight in the decision. I believe this approach is appropriate here. The history of the parties' bargaining, the apparent depth of feeling for or against a particular proposal, and other matters which may relate to whether or not an agreement is ratified are not irrelevant to a proceeding such as this. But at the same time, the rejection of a tentative agreement is not a statutory factor which an arbitrator must consider, and the potential chilling effect on negotiations, were this type of evidence to be given weight in ordinary circumstances, seems a real risk. Furthermore, there is no evidence that the rejection was not in good faith, and ratification requirements in negotiations are widely recognized as an essential phase in reaching agreements which those involved can live with. Accordingly, I do not find the rejection to be a factor to be weighed against the reasonableness of the Union's offer here.

The Union's Position

The Union contends that the key issue here is the Employer's demand for a five percent employee contribution to health insurance premiums. The Union argues that over a number of years, the County's unions have agreed to various steps having the effect of limiting the Employer's outlay for health insurance. In a 1992 series of arbitration cases, the Union prevailed against a County demand to increase deductibles to $200 for single and $600 for family, but subsequently voluntarily agreed to that level. In the 1995-97 agreement the Union agreed to a preferred provider organization which the Union characterizes as providing for both health plan enhancements and benefit reductions. This plan introduced a 10 percent charge to employees who used providers who were outside the network.

This history forms the backdrop against which the Union evaluates the reasonableness of the Employer's demand for a five percent employee share in the premium. The Union contends that the "greater weight" criterion 7g. is relevant here, contending that the thriving local economy in Marathon County warrants favorable treatment of the Union's proposal on economics and casts doubt on the reasonableness of the Employer's quest for a reduction in the percentage payment of health care premiums. The Union cites arbitrator June Weisberger in a Lincoln County award as explicitly finding that the "greater weight" statutory factor cuts both ways. The Union objects, however, to the County's arguments that the "greatest weight" factor concerning tax levy limits applies to the instant case.

The Union argues that the vast majority of the employees in this unit are enrolled in the family health plan, and that under the County's offer, such a subscriber would be expected to contribute $29.24 per month. The Union argues that the Post Employment Health Plan (P.E.H.P.) offered as a quid pro quo by the County is insufficient, on a number of grounds. First, the Union notes, the P.E.H.P. contribution of $24 a month represents a net loss of some five dollars a month for the vast majority of employees. Second, it is expressed in dollar terms, while the premium contribution sought by the County is expressed as a percentage, such that the dollar figures can confidently be expected to go up over time. And third, the Union points to testimony by the Union president to the effect that there is almost no interest in the P.E.H.P. plan within this bargaining unit.

With respect to internal comparables, the Union argues that there is not a consistent pattern of settlement in Marathon County. The Union argues that the health professionals and library bargaining units represented by AFSCME are small units which agreed to the County's five percent premium contribution proposal, but did not regard the P.E.H.P. as a quid pro quo. The Union argues that the health department professionals sought and obtained a realignment of a structural wage inequity involving one-third of the unit, while the library employees settled, contrary to professional advice, for an additional holiday, obtainable only for employees with five-plus years' experience, and conspicuously substandard by comparison with all other settlements and with the final offers of both parties here. Two other unions which settled on the County's terms as regards the premium payments did accept the P.E.H.P. plan, but the Union argues that the Airport employees group constitutes less than 1 per cent of the total represented workforce and anyway received an improved step movement provision, and that the Sheriff's Deputies union received an additional quid pro quo, in the form of a significant improvement to their sick leave payout provision.

With respect to external comparables, the Union notes that there is no dispute about the comparables with respect to this case, and that among the contiguous counties established as comparables in a 1992 interest arbitration, Marathon County is the most industrialized, the largest and the most prosperous. In comparing the health insurance premiums and coverage of these counties, the Union focuses on the percentage contribution by the Employer's and on the maximum out-of-pocket cost to each employee for medical services rendered during a given year. The Union, citing its exhibits 26 and 27, contends that half of the eight comparable counties have 100 percent employer contributions for single employees, and three continue to have 100 percent employer contributions for family employees. The Union particularly focuses on the maximum out-of-pocket cost to employees, in which under either the Union's or the County's proposal here, the maximum out-of-pocket cost for a single employee is $500, while the maximum family out-of-pocket figure is $1200. This, the Union argues, dwarfs all other figures from comparable counties, except in Waupaca County, where the figures are $1200 and $1400 respectively. In the two most prosperous comparable counties, Portage and Wood, the maximum

amount an employee on the single or family plan can pay out-of-pocket is $300 and $400 respectively in Portage County, and $200 and $500 respectively in Wood County.

In terms of up-front deductibles, the Union cites a similar pattern, with Marathon County having single and family deductibles of $200 and $600 under either party's proposal, which is approximately double the typical deductible among the comparables.

With respect to external comparables for the P.E.H.P. plan, the Union argues that only about 40 groups participate in such a plan in the entire state of Wisconsin. Among those, nine are non-union groups, and 19 are law enforcement unions in which the typical employee retires at a younger age than typical employees in the bargaining unit at issue here, thus making a P.E.H.P. plan more attractive. The Union argues that this demonstrates the general unattractiveness of the P.E.H.P. plan to employees such as those in the present unit and supports the testimony adduced at hearing.

The Union argues that given the County's prosperity in comparison to its comparables and in absolute terms, it should demonstrate a compelling need and a significant quid pro quo to justify its health insurance proposal. The Union argues that it has done neither. Applying the late Toby Reynolds' test for the appropriateness of a proposed quid pro quo, the Union argues that the County should be expected to show:

1. That the present contract language has given rise to conditions that require amendment;
2. That the proposed language may reasonably be expected to remedy the situations; and
3. That alteration will not impose an unreasonable burden on the other party.

The Union contends that the County has failed even the first condition, and that numerous arbitrator's have disapproved of using an item which has little or no value in employees' eyes as a proposed quid pro quo.

The Union contends that the wage issue is secondary to the health insurance issue, but that the County can well afford the relatively minor additional costs associated with the Union's second-year offer. In this respect the Union notes that Wisconsin Retirement System contributions have been reduced by .8 percent for the Employer in the last two years, and that while four bargaining units have accepted the County's three percent second-year proposal, the six which are seeking 3.5 percent include all the larger units. The Union sees the external settlement data as mixed and incomplete.

In its reply brief, the Union takes issue with the County's emphasis on the operating levy rate in 1992, contending that the County has offered no evidence in support of the conclusion that its ability to raise taxes to pay for increased wages is "severely limited". With respect to the County's argument that criterion 7g. means the employees, experiencing a healthy economy, can afford to contribute to their health insurance premiums, the Union argues that this is more gymnastic than persuasive, and stands the usual interpretation of this clause on its head.

With respect to the County's argument that consistent fringe benefits and wage settlements have been maintained among the County's 10 bargaining units, the Union agrees that historically this has been relatively accurate, but argues that the County's behavior in the current round of bargaining contradicts its own claim. The Union points to the County's voluntary agreement with the library employees put them one and a half holidays ahead of other employees, and does not introduce the P.E.H.P. The new

agreement with the Sheriff's Deputies adds an additional 192 hours of possible sick leave accumulation, on top of a contract which already provided for more sick leave than any other bargaining unit in the County. Also as to consistency of settlements, the Union argues that the County cannot, in fact, show a consistent settlement pattern, because the four settlements are a minority both of bargaining units and, significantly, of actual employees represented by unions within the County. The Union cites two 1992 arbitration awards in this County as concluding that three settlements in one case, and five in the other, do not constitute a pattern of settlement because the majority of the employees were in the unsettled units.

With respect to the County's contention that six out of eight of the comparables require employees to hair share in health insurance premium costs, the Union argues that four of the eight comparables offer at least one fully paid health insurance plan. The Union also reiterates that in Marathon County, employees already contribute significantly to the total costs of their health care, citing the maximum possible out-of-pocket payment and the up-front deductibles, both of which are higher than comparable counties. With respect to the wage issue, the Union answers the Employer's contentions by arguing that wages are not the major issue, the parties are only ½ of 1 percent apart over the two contract years, and the County should be offering wage increases at least modestly exceeding those of its neighbors because it is significantly more wealthy.

With respect to the remaining issues, the Union argues that the labor management committee is an ironic institution to attempt to enforce through arbitration, but that the Union would have been more sympathetic to a joint approach to reexamination of benefits if the Employer had not been simultaneously attempting to force the issue of an immediate premium contribution. The Union regards the direct deposit of wages as a minor issue and argues that the record does not establish any savings to the County if the present voluntary system is made mandatory. The Union acknowledges the improvement represented by the eyeglass frame increase, but notes that it is minor and argues it should not unduly affect the outcome. With respect to the dental HMO, the Union argues that there is no significant evidence of employee dissatisfaction with the current dental plan, and with respect to the holiday exchange, the Union argues that there is no evidence of any compelling problems resulting from the current December 31 half holiday. The Union also argues that there is no quid pro quo for the change. Finally, with respect to the car allowance modification, the Union argues that this is a benefit reduction for certain employees, proposed without evidence that the benefit's minor costs have created undue problems.

The Employer's Position

The County begins by arguing that the Arbitrator must give greatest weight to the state law limiting the County's ability to increase taxes. The County argues that it cannot increase the operating levy rate that was in effect in 1992, and that while the tax rate remains frozen, the County's expenses have increased, limiting the County's ability to raise money to fund increased spending. The County also argues that employees and citizens are experiencing a healthy economy, which allows employees to contribute to their health insurance premiums. This, says the County, is an appropriate reading of the "greater weight" clause 7g. and that the economic state of the County neither guarantees it more taxes or state aid, nor cramps the ability of employees to contribute to their health insurance.

The County contends that its final offer is both reasonable and consistent with the internal settlement pattern within the County. The County argues that long-standing practice has been to maintain consistency of fringe benefits across employee groups, and that here, four of the 10 bargaining units

have voluntarily agreed to the five percent employee health insurance premium contribution which the County seeks. The County notes that two AFSCME units, as well as Teamsters and W.P.P.A.-represented units, have settled voluntarily, and characterizes the remaining units as "holdouts" which are attempting to "whipsaw" the County. The County also argues that four bargaining units have settled for three percent as a wage increase in 1999, as the County proposes here, and there is a history of wage comparability in percentage settlements in the County generally.

With respect to external comparables, the County argues that six out of the eight comparables require employee contribution to health insurance. In two of these counties, employees pay 10 percent of the premium and in a third, employees pay 15 percent; one County, Taylor, has a choice between a zero percent contribution with a deductible plan, or a 20 percent contribution by the employee for a full-service plan. The County argues that it is paying the highest dollar contribution and almost the highest health insurance premium among the comparables, and argues that even if its proposal is accepted, it will still contribute $58.60 per month more than the average of its comparables for employees on the family plan. The County argues that while the PPO plan curbed premium costs in 1997, in the two years since premiums have skyrocketed, leaving the Employer paying the full burden. The County further argues that local communities, local school districts and private Employer's in the Wausau area almost all require employees to pay a share of their health insurance premiums, often a far higher share than the County is arguing for here.

The County further argues that the external comparables do not support the Union's 3.5 percent wage offer. The County argues that the largest increase that can be found in any of the comparables is in a rural County with lower wages than the County here, in which the settlement was at 3.25 percent, and that most of the counties have settled for three percent, or a cents per hour figure approximating that. No comparable bargaining unit has reached 3.5 percent for 1999.

With respect to the P.E.H.P. plan, the County argues that this constitutes an excellent quid pro quo, arguing that the benefits can be used by any employee immediately upon leaving Marathon County employment (not just retirees) and that in the event of death, the benefits will be owned by the deceased's beneficiaries, never by the County. The County argues that the tax-free quality of this money, added to the fact that the County maintains a Section 125 plan which allows employees to pay their share of the premium for health insurance with tax-free dollars, means that the net after-tax effect of the combination is positive for employees on the family plan as well as single employees.

The County argues that the monthly car allowance presently in the Agreement has been misused by employees, and should be replaced by the language which the County proposes, which is similar to what applies in other bargaining units. The County notes that certain employees have claimed the 20 dollar per month car allowance while accumulating as little as 1.5 miles per month, an obviously absurd result requiring a remedy. With respect to the December 31 half holiday, the County argues that the social services department has the same hours as other units including the courthouse, health department, highway department, parks department and library, and all of these are open until 5 p.m. on December 31st, while the social services department currently has no social workers are support personnel working the afternoon of that day. The County argues that the substitution of a half day of personal time of for employees is an appropriate quid pro quo, and that employees who still wish to use their personal time off on December 31st can do so with approval by their supervisors. With respect to the eyeglass frame coverage, the County argues that this benefits employees and is consistent with an improvement in the settled bargaining units' contracts. Similarly, the County argues that the dental

insurance benefit language change it seeks provides for flexibility and guarantees that there can be no reduction of the dental benefit without the Union's agreement, thus indemnifying employees against any loss. The County argues that its direct deposit proposal is currently in effect in all but three bargaining units, and provides a benefit for employees without any harm. The County argues similarly with respect to its proposal to establish a Social Services Paraprofessionals Union representative on the labor-management committee on employee benefits.

The County contends that its offer exceeds the Consumer Price Index and is closer to the CPI than the Union's 1999 offer.

In its reply brief, the County takes issue with the Union's characterization of health insurance changes over the years as a pattern of employees giving up something each time. The County argues that the PPO plan, in particular, was supported by a joint committee with members from a number of unions in the County as well as nonunion representatives, and that the benefit reductions involved were minor compared to benefit enhancements also introduced by that plan. The County points particularly to a doubling of the lifetime maximum benefit to 2 million dollars per person per year, a new vision care benefits, and a 100 percent paid long-term disability insurance benefit now incorporated in that plan. The County argues that the net effects were highly positive for employees and that the utilization rate of health insurance demonstrates this. The County particularly argues that the $1200 out-of-pocket maximum shown in the Union exhibit is not a likely result for any significant number of employees, because the PPO plan includes as in-network providers "virtually all" health-care providers in central Wisconsin and throughout the state, leaving "a very limited selection" of health-care providers whose services would be subject to the 10 percent copayments. Marshfield Clinic, for example, is included in the PPO plan network. Thus, the County argues, employees using such providers need meet only the deductible of $200/$600. The County argues that its premium cost for these expansive benefits is now virtually the highest among its comparables, and that arbitrators have generally accepted that an employee contribution to the premium is fair and is less onerous than a reduction in benefits. The County argues that even though a quid pro quo might not be needed, under a series of arbitrators' rulings, given that it is paying significantly more per employee per month than the average premium among the comparables, the County has actually offered a quid pro quo, and a better one than the Union admits.

With respect to item (h) of the statutory standards, "overall compensation" the County argues that in addition to health insurance, sick leave, holiday, vacation, WRS, longevity and jury duty provisions similar to those received by employees in the external comparable pool, Marathon County employees receive 50 percent paid dental insurance, vision insurance, and long-term disability insurance, which are not easily found in other counties. In particular, the County notes that only one-half of the eight comparables receive any form of disability insurance, only one of the comparables provides a dental insurance benefit, and only one other county provides vision care insurance. Marathon County is the only one among the comparables to offer all three of these special benefits.

The County contends that in addition to the four settled bargaining units previously noted, following the hearing the Sheriff's Department Supervisors bargaining unit ratified an agreement, which included the five percent employee contribution to health premiums in exchange for the P.E.H.P. plan, so that now 5 bargaining units and all nonunion employees have the five percent employee contribution. The County argues that the car allowance, eyeglass frames, direct deposit, dental insurance, the December 31 holiday, and labor-management committee provisions were accepted by the Union's bargaining

committee as part of a tentative agreement, and the County is merely proposing the same provisions that it has with settled bargaining units and has implemented with nonunion employees. The County argues that the minor differences in benefits settlements for certain bargaining units merely reflects slightly different circumstances and situations which the County has acknowledged when differing bargaining units have raised them, while still seeking consistency wherever possible. The County argues that maintaining consistency in the basic benefits, particularly health insurance, is particularly important.

The County argues that statutory item 7c., "interest and welfare of the public," is best supported by the County's final offer, because allowing certain employees to maintain fringe benefits above those provided to other employees who have recognized the County's burden is not in the best interests and welfare of the public, and will not be conducive to employee morale.

Discussion

I will first assess the reasonableness of the parties' positions on an issue by issue basis, and then turn to an overall assessment in order of the statutory criteria. It is clear, to begin with, that the health insurance proposal has been the overriding priority of both parties. Both here and on the wage issue, there is a certain logic in Arbitrator Weisberger's Lincoln County finding that the "greater weight" statutory language could cut both ways. While few observers of that round of political bargaining would read the intent of the 1996 legislature as being to provide an improved opportunity for unions in wealthy communities to argue for extra wages, there is nothing in the actual language of the statute to support arbitrators' subsequent frequent assumption that that language must be applied negatively to union aspirations, or not at all. Meanwhile, the County's argument as to the impact of the "greater weight" clause is perverse, and contrary to any reasonable reading of the intent of that clause. Yet even giving the Union the benefit of the doubt as to this criterion, Marathon County is not so conspicuously more prosperous than at least two of its comparable counties as to do the Union any good under this criterion. Both Wood and Portage counties require employees to pay a share of the health insurance premium, and neither has settled for the 3.5 percent wage increase the Union seeks for 1999.

I find nothing in the record, however, to support the Employer's claim to benefit from the "greatest weight" criterion; the County has simply not made a case with respect to any specific limits being likely to be exceeded by either proposal, and the fact that the levy rate of 1992 cannot be exceeded, by itself, means little in view of the hefty increases in property value noted in the record.

With respect to internal comparability on the health insurance issue, I note that both nonsupervisory bargaining units which accepted the P.E.H.P. also received something extra not offered by the County in this matter. While the parties have not attempted to cost out the dollar or percentage value of these benefits based on the documents in the record, there is evidence that there were wage adjustments involved in the Airport unit and improve sick leave payout benefits involved in the Sheriff's Deputies settlements, as well as an improved step movement. Meanwhile, and similarly difficult to place a precise percentage value on, there was some redress for a perceived wage disparity in the health department professionals bargaining. Yet the library bargaining unit settled for a benefit limited in scope compared to the P.E.H.P., and which the Union credibly costs at a lower value. The fact that it did so even following its bargaining agent's recommendation against such a settlement suggests that perceptions of reasonableness of the Employer's five percent employee health contribution proposal are not so adverse as the Union suggests.

Given that the statute explicitly requires that an arbitrator consider "changes in the foregoing" and that three arbitration awards in Marathon County units have been published since the briefs were received, it is appropriate to consider the impact, if any, of these awards. In all three, the essential issues were the health insurance proposal at five percent employee contribution, and the Union's 3.5 percent wage proposal in the second year. In the Highway Department and Parks Department bargaining units, the County prevailed, while in the Courthouse bargaining unit the Union prevailed. The net result is that of the 10 bargaining units, five have voluntarily settled for packages which included the County's five percent proposal and two more are now subject to awards including that proposal, while the single largest unit has a contract incorporating the Union's final offer. Despite the fact that the courthouse unit has more than 200 of the County's 500-plus employees, the sheriff's deputies and highway units also are substantial. This is not a conclusive pattern favoring the County's proposal, but it is something of one.

The external comparables, in my view, favor the County's proposal on health insurance. The following table summarizes the comparables:

Summary of family insurance rates and deductibles for external comparables (based on Employer's Ex. 50; reprint may contain scanning errors)

Comparables	Employee's Share	Employer's Share	Full Premium	Deductible	Co-Pay	Out-of-Pocket Maximum
Clark	Rates for 1997/98/99					
	Standard -- $84.78	480.40	565.18	300	Major Med 80/20	No Maximum
	Deluxe -- 339.18	480.40	819.58	0	None	No Maximum
Langlade	1997 -- 0.00	500.00	500.00	300	In -- 90/10	In -- 600
	1998 -- 0.00	454.00	454 O0		Out -- 80/20	Out -- 900
	1999 -- 0.00	454.00	454 O0			
Lincoln	1997-- 0.00	501.88	501.88	600	In -- 90/10	In - 1000
	1998 -- 0.00	527.00	527.00		Out -- 80/20	Out - 1000
	1999 -- 0.00	527.00	527.00			
Portage	1997 -- 24.43	464.12	488.55	200	90/10	400
	1998 -- 25.16	478.05	503.21			
	1999 -- 26.42	501.95	528.37			
Shawano	1997 -- 56.88	512.00	568.88	300	20% Drug Only	300
	1998 -- 53.47	481.27	534 74			
	1999 -- 55.61	503.33	555.94			
Taylor	Full Service Plan					
	1997-- 102.80	411.20	51400	0	0	0
	1998; 2 family -- 93.80	375.20	469.00			
	1998; 2+ family -- 109.60	438.40	548.00			
	!999; 2 family -- 97.55	390.21	487.76			
	1999; 2+ family- 113.98	455.94	569.92			
	Deductible Plan					
	1997 -- 0.00	490.00	490.00	300	80/20	1 ,CO0
	1998; 2 family -- 0.00	447.00	447.00			
	1999; 2+ family -- 0.00	523.00	523.00			
	1999:2 family -- 0.00	464.88	464.88			
	1999; 2+ family -- 0.00	543.92	543.92			
Waupaca	1997 -- 43.90	395.10	439,00	In -- 0	In -- 90/10	In -- 500
	1998 -- 48.57	437 15	485.72	Out -- 400	Out -- 80/20	Out -- 1400
	1999 -- 53.43	48084	534.27			
Wcod	1997 -- 26.50	503.50	530.00	300	90/I 3	400
	1998 -- 27.75	527.25	555.00			
	1999 -- 27.75	527.25	55500			

COUNTY'S FINAL OFFER

1tl/97 - 0100.	498.32	498.32	600	In -- 100%	1200
5t1/97 - 0.00	418.59	418.59		Out -- 90/10	
1/1/98 - 0,00	524.85	524.85			
1/1/99 - 0.00	584.71	584.71			
12/1/99 - 29.24	555.48	584.71			
UNION'S FINAL OFFER					
1/1/97- 0.00	498.32	498.32:	600	In -- 100%	1200
5/1/197 - 0.00	418.59	418.59		Out-- 90/10	
1/1/98 - 0.00	524.85	524.85			
1/1/99 - 0.00	584.71	584.71			

I accept the argument in the Employer's reply brief that the Union's characterization of Clark County's benefits is in error. The table above honors the Union's claim that the maximum possible out of pocket contribution to medical payments by an employee is, indeed, large compared to most of the comparables. But the County's contention that this is a relatively unlikely event is entitled to significant weight. It appears from all of the evidence available that this PPO is far from a stripped-down, "lowball" option. I accept the County's argument that relatively few employees are likely to choose to go off-network and that the likelihood of any significant number of employees actually incurring the full $1200 out-of-pocket expense is therefore remote. Meanwhile, one reason why employees might find the PPO attractive, in addition to inclusion among its provider network of some of the best known providers in the area, is that its benefits significantly exceed what the comparable counties are providing, particularly in the form of long-term disability insurance, vision and dental care. The net effect is that the County has been enduring one of the highest premiums in the area at its sole expense to support a plan which is far from parsimonious. The five percent contribution the Employer seeks is modest enough in comparison to the average of the comparables, especially when compared to the average of the comparables' benefits.

Yet the County, as the Union argues, is experiencing good economic times and makes no attempt to prove that it is "hard up." A quid pro quo is therefore called for and the one offered deserves close examination. While objectively the P.E.H.P. amounts to roughly a wash transaction for family employees (at least in the long run) and a net gain for single employees, it does not appear all that attractive to actual employees, locally or statewide: the Teamsters and W.P.P.A. bargaining units obtained some additional benefits from their respective bargains, while the two AFSCME units which settled did so without this benefit, one of them even opting for a benefit which calculates out to less in dollar terms. And while, as noted below, the prosperity of Marathon County and the Union's "greater weight" arguments do not justify the Union's 1999 wage proposal, they certainly affect the balance of reasonableness when the Employer seeks a reduction in costs. Overall, I conclude that with respect to the health insurance proposal of the Employer, the external comparables favor the County, the internal comparables slightly favor the County, and the quid pro quo offered is objectively not without merit but is unattractive to the average employee. Applying Arbitrator Reynolds' tests for adequacy of this proposal, the five percent contribution could be said to "reasonably be expected" to address the perceived problem, and in view of the dollar value of the quid pro quo, the change does not "impose an unreasonable burden" on employees. But the first criterion, that "the present contract language has given rise to conditions that require amendment" is not so easily met. Whether even a relatively high health-insurance premium "requires" an involuntary change, in a situation where the employer is prosperous and can show no inability to meet the costs of continuing the current arrangements, and where the economic value of the change is more or less absorbed by an unwanted quid pro quo, is debatable. I conclude that even with the majority of the bargaining units now showing a pattern of a five percent contribution by employees, the unattractiveness of the quid pro quo to employees generally, the fact that the County cannot show a compelling economic need to substitute one cost for the other, and the fact that approximately 40 percent of the County's employees are now under a contract which includes the Union's offer, means that the Union's status quo proposal is marginally preferable to the County's proposed change. But it is a close matter.

The wage issue is not a close matter. The Union, to put it simply, has presented essentially nothing factual to support the 3.5 percent proposal for the second year, and the County's three percent proposal is above the CPI and in line with external comparables as well as seven internal contracts. Although the Union characterized the wage issue as relatively minor, I cannot accept this in view of the lack of any economic justification for a wage increase exceeding both internal and external comparables. I note that even the arbitrator who awarded in favor of the Union's final offer in the Courthouse case found the County's offer specifically on wages to be the more reasonable.

The remaining issues deserve a terseness matching that of the parties. Concerning the car allowance, the County has shown a minor pattern of abuse on a minor item, justifying a change to language acceptable anyway in other bargaining units. The need to staff the Social Services unit similarly to other courthouse offices on December 31st appears reasonable, and the County's proposal offers a quid pro quo in the form of an equal amount of time off as personal time. The proposal to improve the amount payable for eyeglass frames involves no loss to any employees, merely a minor gain. And the removal of a specified provider in the dental insurance language involves little risk to the Union, since the Employer's proposal provides for employee participation in decision-making and a Union veto of any change in benefits. The direct deposit language proposal attracted no significant argument by the Union, and at most is a minor inconvenience to the most bank-suspicious employees. All of these minor items are supported by the internal comparables. Mandatory participation in a labor-management committee, however, is something of a contradiction in terms, and I find the Union's proposal on this item, alone of the minor items, more reasonable.

The Statute's Weighing:

Under subparagraph 7r. of the statute, subsections a. and b. are not contested, and under subsection c., the financial ability of the County to meet the higher costs of the Union's proposal is not contested. The interests and welfare of the public are not materially affected by either proposal.

Under subsection d., the external comparables favor the County with respect to health-insurance and strongly favor the County with respect to wages. There is little or no evidence with respect to external comparables concerning any of the other issues.

Under subsection e., the internal comparables now include seven bargaining units which have settled for the County's five percent employee health contribution, while the single largest unit (which is three times the size of the next largest unit) is under a newly arbitrated contract which incorporated the Union's final offer. The same is true for wages. But of the units which settled voluntarily, three in effect obtained quid pro quo's for accepting the County's health proposal which are difficult to calculate in value, but appear to exceed what the County has offered here. The fourth settled for less, and as to the fifth there is only cursory data. The internal comparables generally favor the County's proposal on the minor items.

Under subsection f., other types of employers are generally closer to the County's health insurance proposal than to the Union's, but this factor is given less weight, for reasons which have been consistently stated by many other arbitrators.

Under subsection G., both offers are relatively close in overall cost, but the County's offer exceeds the CPI and is closer to it than the Union's, a factor favoring the County's wage proposal.

Subsection H., "overall compensation," is not materially involved here except to the extent that it is clear that the Union cannot make a "catch-up" argument to justify its wage proposal.

Under subsection I, "changes… during the pendency", one very small union which does not enjoy the full range of impasse procedures under this statute has settled, on the County's terms, since the hearing.

Also, as noted above, the County has prevailed since the hearing in two other arbitration cases, creating a total of seven bargaining units which are now under contracts including the County's health insurance proposal. At the same time, the Union has prevailed in one arbitration case, covering more than double the number of employees included in both of the County's wins. And subsection J. does not appear to be involved here.

Summary

On all of the minor items except for the mandatory inclusion of a labor-management committee, the County's proposal is either equally reasonable to the Union's or more reasonable. Taken together, these proposals constitute a very small weight in favor of the County's proposal. I find the health-insurance proposal to be a very close balance at this point. At first sight, the fact that there are now seven bargaining units under the five percent employee contribution would appear to fit the general definition of a "pattern." But the single largest unit, constituting 40 percent of the County's total employment, has gone the other way. I conclude that there is still not an overwhelming pattern in favor of the County's proposed change on a significant issue. Meanwhile, the external comparables favor the County, while the economic fairness of the P.E.H.P. quid pro quo is apparent in objective terms, but has failed to convince most employees that it is an attractive benefit and a fair exchange. In this context I note particularly that most of the bargaining units which settled voluntarily with the County appear to have obtained one or another kind of additional benefit or improvement in the bargain. I conclude that the overall balance on the health-insurance and P.E.H.P. proposals slightly favors the Union.

But on the remaining issue the balance is clear. The external comparables favor the County's proposal on wages; no voluntarily settled unit includes the extra half percent in the second year which the Union has argued for; and even in the one arbitration proceeding in which the Union has prevailed, the arbitrator found against the Union on that issue. I conclude that since the health insurance issue, as noted above, creates only a small preference in favor of the Union's overall proposal, the County's proposal on wages becomes a larger factor favoring the County's. On balance, the County's offer thus prevails.

For the foregoing reasons, and based on the record as a whole, it is my decision and

AWARD

That the final offer of Marathon County shall be included in the 1998-1999 collective bargaining agreement.

Dated at Madison, Wisconsin this [eighth day of October, 1999]

By_____
Christopher Honeyman, Arbitrator